Texas General Land Office -Disaster Recovery

Notice: **Environmental Guidance**

Subject: Phase I Environmental Site Assessments for HUD-assisted Non-Housing Activities

Purpose: The Texas General Land Office (GLO) has received further clarification from the HUD Region VI Environmental Officer regarding Phase 1 requirements. The following information is intended to provide clarification of GLO's Phase I ESA requirements.

Effective Date: September 27, 2012

ASTM Phase I Environmental Site Assessment (ESA) Requirements

In compliance with §58.5[1], Related Federal laws and authorities, an ASTM International, formerly known as the American Society for Testing and Materials (ASTM), Phase I ESA is prompted when an evaluation of Toxic Chemicals and Radioactive Materials returns concerning information. If it is determined that there are areas of concern within 3,000 feet of the proposed project site (i.e. Concerns Include: Landfills , Gas Stations, Leaking Underground Storage Tanks, Auto Garages, Junkyards, Auto body shops, Hospitals, Agricultural Farms, Tannery, Commercial Printing Facilities, Buried Waste, Unexplained dirt piles/mine tailings, Dry Cleaning Facilities, Industrial Production Facilities, Meth Labs, or other areas that contain, or may have contained, hazardous wastes), then an ASTM Phase I ESA is an appropriate testing mechanism to further investigate if there is a need for potential ground testing (Phase II ESA), and possibly site remediation (Phase III ESA), or if it is in the opinion of the qualified environmental professional* to state that there are not any hazardous waste concerns at the subject property.

An ASTM Phase I ESA is necessary when Government records indicate that a facility within the minimum search distance is not in compliance with its permit, shows a permit violation, or has a Government oversight official that confirms there is a potential for release or threatened release to the project site. A Phase I ESA is also necessary when other information indicates prior property use that could cause contamination, or if a site visit shows signs of potential contamination (i.e. distressed vegetation). As a side note, a Phase I ESA is also necessary for multifamily projects.

***Qualified Environmental Professionals are defined as:**

- **Professional Engineer or Geologist with 3 Years of Relevant Fulltime Experience; or**
- **Licensed or certified to perform All Appropriate Inquiries and 3 Years of Relevant Fulltime Experience; or**
- **Engineering or Science Baccalaureate Degree or higher and 3 Years of Relevant Fulltime Experience.**

[1] 24 CFR Part 58, SECTION 5—ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES http://www.gpo.gov/fdsys/pkg/CFR-2011-title24-vol1/pdf/CFR-2011-title24-vol1-part58.pdf

Why do an ASTM Phase I ESA?

The table below identifies a few sources that contribute contamination to our earth, how people are exposed to them, the associated pollutant and the potential health effects that they could have on those that are near the contamination source.

Pollution Sources, Exposure Methods, and Health Implications

Source	Exposure Method	Associated Pollutant	Potential Health Effects
Petroleum Storage Tanks	Vapor Intrusion through floors	Benzene and other solvents	Leukemia, other cancers
Dry Cleaning	Vapor Intrusion, Ambient Air	• Perchloroethylene • Tetracholorethylene	Central Nervous System Effects, Cancer
Agricultural Industries	Onsite or buried pesticide containers	Various Pesticides and Herbicides	Range of effects including acute and chronic neurological effects, cancer, birth defects
Industrial Production Facilities	Air emissions, buried containers, toxic releases	Range of toxic chemicals depending on production process	Range of effects including cancer, birth defects, chronic effects, acute neurological
Meth Labs	Chemical explosions. Inhaled, absorbed through skin, ingested	• Acetone • Lithium • Toluene • Sulfuric Acid • Pseudoephedrine	Fire and explosion hazard, acute and chronic CNS effects, cardiac arrest, lung damage, renal failure, stroke death, developmental toxicity

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Agency for Toxic Substances and Disease Registry

In addition to the health effects, there is also legal liability that may accompany any newly discovered contamination. If a Phase I is not completed and site contamination is identified after construction, legal liability may accrue to the current owner and HUD funds **cannot** be used for site remediation.

What about distances from the Project Site Location to the Contamination Source?

The chart on the next page identifies the minimum distances that should be researched when conducting an ASTM Phase I ESA through Government Records Searches. If a contaminated site is identified within the distance searches, then the site must be fully investigated to determine if there would be any potential effects to the HUD-funded proposed project.

Recommended Government Records Search Distances

ASTM Practice E 1527-05 Section 8.2.1.

Standard Environmental Record Sources	Approximate Minimum Search Distance (mi)
Federal NPL Site List	1
Federal RCRA CORRACTS Facilities List	1
Federal Delisted NPL Site List	0.5
Federal CERCLIS List	0.5
Federal CERCLIS NFRAP Site List	0.5
Federal RCRA Non-CORRACTS TSD Facilities List	0.5
Federal RCRA Generators List	Property/Adjoining Properties
Federal Institutional Control/Engineering Control Registries	Property Only
Federal Emergency Response Notification System (ERNS) List	Property Only
State- and Tribal-Equivalent NPL	1
State- and Tribal-Equivalent CERCLIS	0.5
State and Tribal Landfill and/or Solid Waste Disposal Site Lists	0.5
State and Tribal Leaking Storage Tank Lists	0.5
State and Tribal Voluntary Cleanup Sites	0.5
State and Trial Brownfield Sites	0.5
State and Tribal Registered Storage Tank Lists	Property/Adjoining Properties
State and Tribal Institutional Control/Engineering Control Registries	Property Only

The chart, which identifies the search distances, is summarized by HUD from the All Appropriate Inquiries Rule (CFR Title 40: Protection of Environment Part 312, particularly §312.20 and §312.26) and ASTM Practice E 1527-05 Section 8.2.1.

If Recognized Environmental Conditions (RECs) are identified, then a Phase II may be necessary to confirm the presence and type of any RECs. If the Phase II identifies contamination, a Phase III ESA is necessary to identify the extent of contamination and method of removal and treatment.

As always, if there are any questions about whether an ASTM Phase I ESA should be completed, please feel free to contact the GLO Environmental Team to discuss the details of any specific projects.

In the event a Phase 1 is required

A Phase I ESA must be conducted by a qualified professional as outlined in the ASTM standards and code of federal regulations. The GLO will include the Phase I ESA in the contracted engineering firm's work order. The contracted engineering firm will either perform the Phase I ESA or sub-contract it to a qualified environmental ESP. In the event there is a need for remediation or a monitoring plan, the engineer will be the one who designs and drafts the technical specifications.

The steps that will need to occur are:

1. The Engineer will develop the scope and fee for the Phase I ESA, revise Table II, and provide to the Grant Administrator.
2. The Grant Administrator will work with the Grantee to develop the Revision Request to move the appropriate funds from construction to engineering.
3. The GLO will process the Revision and amend the engineering work order.